IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3664 OF 2005

Sudhakar Waman Ahire ...Applicant

vs.

State of Maharashtra ...Respondent

Mr.K.T.Thomas for the Applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 4,2005.

P.C.:

1. The Applicant was arrested by DCB-CID on 30th June 2004 in connection with the F.I.R. registered under Sections 406,420,467, 468, 471, 120-B read with Section 34 of the Indian Penal Code. The prosecution case in short is one Yasir Dawood Khan and his brother are the Promotors and Directors of a Private Limited company. The said private limited company represented to various banks that the said company is dealing with the arranging for finance for purchasing new vehicles. The said company was having a current account in the State Bank of India, Opera House Branch, Mumbai. The case of the prosecution is that Yasir Khan and his brother submitted various documents to State Bank of India, Opera House Branch,State Bank of Bikaner and Jaipur and State Bank of Indore, Malad Branch, Mumbai. The documents were regarding the income of their customers, income Tax returns of their customers, documents of proof of their residence etc. The case of the prosecution is that on the basis of the said

documents large amount by way of loan have been disbursed to the extent of Rs.1,62,07,000/- by the said three banks. The allegation is that the income tax returns, income tax challans and other documents produced by the said company with the banks were fabricated. One of the Directors Yasir Khan is in custody and his brother Faizal Khan is absconding.

2. The case of the Applicant is that at least five accused have been enlarged on bail. He is claiming bail on the ground of parity. The second ground on which the bail is claimed is that his wife is suffering from an ailment and therefore the Applicant be enlarged on bail so that he can look after his wife. The third ground is that the Applicant is in jail for last more than one year and therefore considering the fact that the trial is not likely to commence in near future, he is entitled to be enlarged on bail.

3. I have considered the aforesaid submissions of the Advocate for the Applicant. I have also heard learned A.P.P. for State.

4. The case of the prosecution is that recovery of about 35 rubber stamps was made at the residential premises of the Applicant. The rubber stamps are of Income Tax Officers, State Bank of India and some Chartered Accountants. The rubber stamps are of various branches of State Bank of India and various officers of the Income Tax Department. The rubber

stamps are of seals of the Income Tax Officers and Assistant Commissioner of Income Tax. The allegation of the prosecution is that the banks were defrauded by producing fabricated income tax returns and challans showing the payment of income tax and other documents. The perusal of the orders passed in favour of the co-accused by the learned Additional Sessions Judge show that none of them have played any major role in the fabrication of the documents. The application for bail made by Yasir has been rejected and his brother is absconding. Considering the recovery of 35 different rubber stamps from the residence of the Applicant which are used for fabricating documents and considering the fact that the Applicant is an ex-employee of the Income Tax Department, who has been removed from employment in a fraud case, the Applicant is not entitled to claim bail on the basis of parity.

5. The certificate of Dr.Niraj Jain shows that the Applicant's wife is suffering from Disfunctional Uteral Bleeding. The certificate shows that she is under conservative line of treatment. The certificate does not disclose that the Applicant's wife is suffering from very serious ailment requiring immediate release of the Applicant. The certificate also does not show that any surgery is required. The Applicant has allegedly played a major role in the offence punishable under Sections 406, 420, 467,468,471,120-B read with 34 of the Indian Penal Code. As stated above, 35 rubber stamps of Income Tax Officers and

various branches of the State Bank of India were found at the residence of the Applicant. Three nationalised banks have been allegedly defrauded by the Applicant and others to the extent of more than Rs. 1.62 crores. One of the main co-accused is absconding and the Application for bail of the other main accused has been rejected.

6. In view of the above position, no case is made out for grant of bail. Application is rejected.

JUDGE